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Streamlining Real Estate Processes for Commercial Wireless Broadband Deployment

By James D. Omans, OASN (E1&E), Joanne Wills and Tom Kidd, DON CIO - [July-September 2016](#)

Smartphones changed everything. In fact, it is hard to contemplate a time before the smartphone. They are the first thing many of us grab in the morning when a wakeup alarm goes off, and the last thing we grab as we walk out the door of our offices. They are also the first thing Sailors and Marines grab when their ships come ashore. The loss of a wallet is unfortunate; the loss of a smartphone is catastrophic!

Wireless broadband technology has become embedded in our culture and the smartphone is essential for many of us to obtain the information we need and remain in contact with our families and friends.

The first commercial cell phone network was created in 1983, but cell phone usage did not expand until the 1990s. The introduction of the smartphone in 2007 accelerated the demand for commercial wireless broadband technology. Access to commercial wireless broadband is dependent on the installation of infrastructure equipment in appropriate locations to provide "coverage" to service areas. The installation of this equipment on Department of the Navy properties triggers real estate considerations, which forced a change in DON real estate procedures.

Prior to the proliferation of cell phone usage, communications equipment installed on DON installations was primarily owned and operated by the Department of the Navy to support the mission, by local municipalities for emergency services, or by communications companies that connected a base to local and long distance telephone systems (i.e., backhaul services). Real estate considerations in those situations were fairly simple. The communications equipment being supported was for a public benefit, which made it fairly simple to issue an easement, which is the right to use a property for a specific purpose without owning fee title to it. Also, the number of requests for real estate agreements for telecommunication purposes was relatively low, thus making it easy to manage the workflow.

The tide was turning, though, in the mid-1990s. The Telecommunications Act of 1996 was passed, seeking to foster competition in all telecommunications and broadcast markets. In response, the Naval Facilities Engineering Command (NAVFACENGCOM), the Navy's real estate executive agent, published its 1996 interim real estate guidance for telecommunications. This guidance called for the use of leases, rather than easements, for cell phone companies installing equipment on DON land. The rationale for this change was that cell phone companies provided a service for commercial gain and were fundamentally different than other communications entities providing services for a public benefit. As such, the increased time involved in lease execution was not seen as an issue.

That all changed with smartphones. Suddenly many more requests started coming in from telecommunications companies for access to DON installations to install wireless broadband equipment. The changing nature of cellular service

DUSN(M) Issues Memo Streamlining Commercial Broadband Deployment Process on DON Property

In a June 30, 2016 memo, "Streamlined Process for Commercial Broadband Deployment," Mr. Thomas W. Hicks, Deputy Under Secretary of the Navy (DUSN) for Management, issued guidance that streamlines the process for deployment and expansion of commercial broadband services on Navy and Marine Corps property. "Improving the process by which DON installations are provided the best possible access to commercial broadband systems facilitates future enterprise telecommunications and mobility solutions and enhances the quality of life for Sailors, Marines, civilians, and their families," said Mr. Hicks.

Jim Omans, Real Estate Director with the Office of the Assistant Secretary of the Navy for Energy, Installations and Environment, and Tom Kidd, Director for DON Strategic Spectrum Policy for the DON Chief Information Officer, led a DON working group for this improvement initiative, which included working with the Wireless Infrastructure Association. The resulting coordination process is designed to reduce the time required for commercial broadband deployment from up to five years to less than one.

View the [memo](#).

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broadband equipment. The changing nature of cellular service

caused confusion within the real estate community. The line between public benefit and commercial venture became blurred, and it was unclear if cell phone companies were indeed fundamentally different than other forms of telecommunications.

In 2015, the Federal Communications Commission (FCC) addressed that issue when it decided to treat the internet, and by extension wireless broadband, as a utility that is no different than a water or electrical distribution company. This is an important distinction in the real estate community. Standing real estate authorities in Title 10 and Title 47 of the U.S. Code allow the DON to issue easements for telecommunications towers and equipment when not in conflict with public benefit. An easement can be issued for a site without competition, and all applicants are accommodated up to the point where a location can no longer accommodate any more applicants.

Prior to this distinction, the DON relied on the standing Title 10 leasing authority to issue leases, which states that the granting of a lease to a commercial entity must be competed. The competition process can be lengthy, potentially up to 180 days. That is a long time for a company seeking to install additional equipment to prevent its network from failing in the face of increased demand. Also, unlike easements, leases convey an exclusive use over the real estate, thus potentially shutting other companies out. This FCC distinction made it clear that easements were, in general, the appropriate real estate agreement with telecommunications providers.

Easements can be tailored to contain many of the elements of leases, including annual payments by a commercial entity vice a one-time payment and removal of equipment at the end of the easement period. Additionally, easements can be issued in a relatively short period of time. More important, easements can be issued for relatively long periods of time and can include options to extend without seeking Secretary of the Navy approval. In short, easements normalize the real estate process for wireless broadband companies, thus making routine something that previously was not.

Prior to the FCC decision, the President signed an Executive Order in 2012 directing Federal agencies to develop streamlined policies supporting broadband deployment. Coupled with the subsequent FCC clarification, the Office of the Assistant Secretary of the Navy for Energy, Installations and Environment (OASN E&E) and the DON Chief Information Officer (DON CIO) led a working group made up of DON installation spectrum, public works, and real estate experts in an efficiency initiative with a goal of achieving significant time reduction. The resulting process is the focus of a memorandum issued by the Deputy Under Secretary of the Navy (Management) on June 30, 2016 concerning deployment of wireless broadband on DON installations, including real estate agreements for cell phone companies.

Though a cliché, it is true that change is hard. To ensure unforeseen issues specific to individual installations are not ignored, and to encourage the real estate community to embrace the required changes, this new policy requires installations to report any instance where it takes longer than one year to issue a real estate agreement. The policy also encourages spectrum, facilities, environmental and real estate planning processes to be conducted in parallel vice sequentially. The policy's goal is to normalize all the processes, including real estate, to the point where an answer to a request can be given within a few months vice years. There have been instances in which it took up to five years to complete a broadband deployment process.

At their introduction, I doubt many people were thinking about the fundamental changes the smartphone would bring to information sharing and personal communications. However, given the continued growth of smartphone technology and usage, it is safe to assume that such change will lead to

increased requests by cell phone companies to access our installations to enhance wireless coverage. The [Streamlined Process for Commercial Broadband Deployment](#) policy is designed to speed the processing of such requests.

More important, this policy is designed to improve wireless broadband access by DON personnel and their families. Deployment of wireless broadband on our installations is a quality of life and force enabler issue that we must embrace. The new streamlined broadband coordination process policy eases that deployment.

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